

**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 06/10/04  
AGENDA ITEM 2

**TO:** Planning Commission  
**FROM:** Richard Patenaude, Principal Planner  
**SUBJECT:** PL-2003-0153 CUP – One-Year Extension of Time for a Multi-Tenant Retail Building at the Target Center – Donald Imwalle (Applicant/Owner)

The Project Is Located at the Northeast Corner of Whipple Road and Industrial Parkway Southwest in an Industrial (I) District

**RECOMMENDATION:**

Staff recommends that the Planning Commission approve a 12-month extension for Use Permit PL-2003-0153.

**DISCUSSION:**

On June 19, 2003, the Planning Commission unanimously approved a use permit to create a multi-tenant retail building at the Target center. The Planning Commission approval expires one year from project approval unless the developer has obtained a building permit. The Commission may, however, grant a maximum of two 1-year extensions. In making a decision on approval of an extension, the Commission is to consider the cause for delay, and whether the proposal is in conformance with existing development regulations. The applicant indicates that the delay is due to two reasons: 1) the timing of his acquisition of the property from Target; and 2) a delay in financing dependent upon the expected issuance of a hazardous materials clearance within the next three months.

This project remains consistent with the General Plan Map and Zoning District designations. No changes to the project are proposed as part of the extension and there have been no significant changes in the area or in City policies that would require a new environmental study or which would be in conflict with the approved use permit.

Prepared by:

A handwritten signature in black ink, appearing to be "R. Patenaude", is written over a horizontal line.

Richard E. Patenaude, AICP  
Principal Planner

Recommended by:

A handwritten signature in cursive script, reading "Dyana Anderly", written over a horizontal line.

Dyana Anderly, AICP  
Planning Manager

Attachments:

- A. Applicant Letter
- B. Conditions of Approval
- C. Plans and Elevations

# IMWALLE STEGNER

A REAL ESTATE DEVELOPMENT CORPORATION

May 12, 2004

Richard E. Patenaude  
Principal Planner  
City of Hayward  
777 B Street  
Hayward, CA 94541-5007


RE: PL 2003-0153 CUP (Modification of Use Permit/Site Plan Review No. 01-160-05)  
Target Pad – Whipple Road @ Industrial Parkway SW

Dear Richard,

At this time, we'd would like to request a one-year extension-of-time for the above referenced Conditions of Approval. Our delay in starting construction on the project has been twofold. The purchase of the property from Target Corporation by Don Imwalle was not completed until December of 2003, several months later than anticipated. Also, we have been waiting for several months for an Additional Investigation Report as requested by the Alameda County Water District regarding the environmental status of the entire Target site. Unfortunately, we cannot complete our financing of this development until this report is approved by the Water District which we anticipate happening in the next 3 months.

We are still fully committed to this development and all the provisions outlined in our Conditions of Approval. With this letter we have included a check for processing this extension. We appreciate all your time to date on this project.

Sincerely,

  
Dominic J. Giacalone  
V.P./Development

CC: Rick Shaffer  
Don Imwalle

**CONDITIONS OF APPROVAL  
PL 2003-0153 CUP**

**Modification of Use Permit/Site Plan Review No. 01-160-05  
Whipple Road @ Industrial Parkway SW  
Donald Imwalle (Applicant) / Target Corporation (Owner)**



**Planning Division**

1. PL 2003-0153 CUP (Modification of Use Permit/Site Plan Review No. 01-160-05) to accommodate a 16,151-square-foot, multi-tenant, retail commercial center shall be constructed according to these conditions of approval and the plans approved by the Planning Commission on June 19, 2003, and according to all relevant conditions approved by the Planning Commission on April 12, 2001, for UP 01-160-05.
2. This approval is void one year after the effective date of approval unless prior to that time an extension is approved. Any modification to this permit shall require review and approval by the Planning Director. A request for a one-year extension-of-time, approval of which is not guaranteed, must be submitted to the Planning Division at least 30 days prior June 19, 2004.
3. The uses permitted shall be limited to those Retail Commercial Uses that have a regional/sub-regional marketing base and are listed in Section 10-1.1315a.(5) (Central Business District – Retail Commercial Uses). Other approved uses are banks, barber or beauty shops, and copying and mailing facilities. Other similar uses may be approved by the Planning Director with the determination that they support a regional/sub-regional marketing base. Prohibited uses include industrial uses, administrative and professional offices/services (except banks), automobile related uses, personal services (except barber or beauty shops), service commercial uses (except copying and mailing facilities), and residential uses. Uses not otherwise approved by this modification shall require further modification of the Use Permit by the Planning Commission.
4. Unless otherwise required, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director prior to final inspection and occupancy of any structures.
5. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
6. Violation of these conditions is cause for revocation of permit, after a public hearing before the duly authorized review body.
7. No outside storage of material, crates, boxes, etc. shall be permitted anywhere on site, except within the trash enclosure area as permitted by fire codes and within areas designated for outdoor display of merchandise for sale. No material shall be stacked higher than the height of the trash enclosure screen wall and gate.

8. Tenant management shall take reasonable necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises to the degree that surrounding commercial uses would not be bothered and that loitering is not permitted.
9. Sidewalks and parking lots must be kept free of litter and debris and to minimize the amount of wind-blown debris into the wetlands mitigation area and surrounding properties. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system and wetlands mitigation area. No cleaning agent may be discharged to the storm drain or wetlands mitigation area. If any cleaning agent or degreaser is used, washwater shall be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the City wastewater treatment plant.
10. A minimum of two trash receptacles shall be placed at each customer entry. Trash receptacles shall be a decorative, pre-cast concrete type with a self-closing metal lid.
11. No vending machines shall be displayed outside the building, except for newspaper racks.
12. The applicant, owner(s) and/or tenants shall maintain in good repair all building exteriors, walls, lighting, trash enclosure, drainage facilities, driveways and parking areas. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.
13. Delivery vehicles shall access the site from Wiegman Road or the most-easterly Whipple Road driveway only.
14. Any public telephone(s) shall be located within the interior of the building, unless otherwise authorized by the Planning Director. Any public telephone allowed to be installed on the exterior of the building shall be limited to out-going calls only and shall be located near the store entry.

#### Design

15. Detailing, such as colorful metal grid accents in the arches, shall be incorporated into the design, and color consistency of all decorative accents, such as light fixtures, patio furniture, and litter cans, shall be accomplished to the satisfaction of the Planning Director. Interest should also be added to the broad facade above the windows by incorporating recessed or raised areas for signs or other decorative trim that would break up the broad expanse.
16. All roof mechanical equipment and any satellite dish shall be fully screened from view of the freeway and from ground-level view within 150 feet of the property.
17. Prior to occupancy and the installation of any signs, the applicant shall submit a Sign Program Application to the Planning Director for review and approval, subject to the following:
  - a. compliance with the City of Hayward Sign Regulations;
  - b. the sign program may not include any additional freeway-oriented sign or monument signs;
  - c. wall signs shall use individual channel letters;
  - d. directional signs shall not exceed 6 sq. ft. in area per face and 3 feet in height; and

the applicant/business operator shall not display any illegal banner signs, portable signs, inflatable signs, or other illegal signs on the property.

18. Exterior lighting for the establishment shall be maintained which is adequate for the illumination and protection of the premises but does not exceed a light level that provides glare to motorists, nor spills onto nearby properties, or up into the sky. The fixtures shall be designed to keep the light from spilling onto adjacent properties. Within the parking lot, the minimum requirement is 1-foot candle of light across the entire surface. Luminaires shall be of a design that complements the architectural style of the building and the landscaping in developing a quality image of the City of Hayward and shall be approved by the Planning Director. The maximum height of the luminaires shall be no greater than the height of the structures unless otherwise permitted by the Planning Director. The lighting, and its related photometric, plan shall be reviewed and approved by the Planning Director.
19. Tenant improvements may not affect the exterior of the building without the prior approval of the Planning Director.
20. At such time the adjacent property to the north is redeveloped for retail commercial use(s), the owner shall cooperate with the City and the adjacent property owner to provide joint vehicular and pedestrian access between both properties.

#### Landscaping

21. The applicant shall submit detailed landscaping and irrigation plans prepared by a licensed landscape architect for review and approval by the City. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance and the following requirements:
  - a. Parking areas shall include a minimum of one 15-gallon parking lot tree for every six parking stalls. The minimum dimension of any new tree well or landscape median shall be five feet, measured from back of curb. Parking rows shall be capped by landscaped islands.
  - b. Parking and loading areas shall be buffered from the street with shrubs, masonry walls or earth berms. Where shrubs are used for buffering, their type and spacing shall create a continuous 30-inch high screen within two years. All masonry walls and trash enclosures shall be continuously buffered with shrubs and vines.
  - c. All blank building façades, at the discretion of the Planning Director, shall be softened with a combination of vertical-growth landscape materials and vines on decorative trellises.
  - d. Above ground utilities (e.g. gas or electric meters, backflow devices) shall be screened from the street with shrubs.
  - e. Where any landscaped area adjoins driveways or parking areas, Class B Portland Cement concrete curbs shall be constructed to a height of six inches above the adjacent finished pavement.
  - f. A landscape buffer including shrubs and one 15-gallon tree for every 20 lineal feet of property line is required along the northerly property line.
22. Landscaping shall be installed and a Certificate of Substantial Completion and an Irrigation Schedule shall be submitted prior to issuance of a Certificate of Occupancy.
23. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and

minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code.

#### Parking/Driveways

24. All parking stalls and maneuvering areas shall meet the minimum standards of the City Parking Ordinance. The parking areas shall be paved with either Portland cement or asphalt concrete and the area shall be striped to designate the parking stalls. The Planning Director shall approve the design of the driveway, curbing and materials to be used. Aisles, approach lanes, drive-through lanes and maneuvering areas shall be marked and maintained with directional arrows and striping to control traffic flow.
25. Vehicular circulation areas shall be signed as a fire lane and posted for no parking except within designated parking stalls and pick-up areas.
26. At such time adjacent properties are developed with retail uses, the property owner(s) shall provide for vehicular access connections into parking areas on the adjacent properties to reduce the need for street access.

#### **Building Division**

27. The project plans shall include storm water measures for the operation and maintenance of the project for the review and approval of the City Engineer prior to occupancy. The project plan shall identify Best Management Practices (BMPS) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into stormwater runoff. Prior to issuance of a building permit, a drainage plan shall be submitted that meets the approval of the Planning Director, and shall include the following:
  - a. That all storm water is conveyed into City of Hayward or Alameda County Flood Control District facilities.
  - b. Structural controls such as oil/water separator, sand filter or fossil filter or other approved devices per applicant's discretion which accomplish the same shall be installed to intercept and treat storm water prior to discharging to the storm drain system. The design, location, and a maintenance schedule shall be submitted to the City Engineer for review and approval prior to the issuance of a building permit.
  - c. Erosion control measures to prevent soil, dirt and debris from entering the storm drain system during construction, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
  - d. The labeling of all on-site storm drain inlets in the shopping center with "No Dumping - Drains to Bay," using approved methods approved by the City.
  - e. The cleaning of all storm drains in the shopping center at least once a year immediately prior to the rainy season (October 15th). The City Engineer may require additional cleaning.
  - f. No storm water shall be discharged to the sanitary sewer without a Wastewater Discharge Permit, which will be issued only if there is no feasible alternative. This means that if

washing takes place in the trash area, the wash water shall be discharged to the sanitary sewer. If this area is covered and protected from storm water runoff, a permit is not necessary.

- g. Drains in any wash or process area shall not discharge to the storm drain system. Drains should connect to an approved collection system. The collection system is subject to the review and approval of the City Engineer prior to the issuance of a building permit.

28. The National Pollution Discharge Elimination System (NPDES) standards shall be met. A Notice of Intent permit is required from the Regional Water Quality Control Board prior to the start of any grading. The applicant shall submit a construction Best Management Practice (BMP) program for review and approval by the City prior to the issuance of any building or grading permits. These BMPs shall be implemented by the general contractor and all subcontractors and suppliers of material and equipment. Construction site cleanup and control of construction debris shall also be addressed in this program. The applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop work order. The NPDES program shall include the following items:

- a. Gather all construction debris on a regular basis and place them in a dumpster or other container, which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution.
- b. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
- c. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping.
- d. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season (October 15), 2) site dewatering activities, or 3) street washing activities, 4) saw cutting asphalt or concrete, in order to retain any debris or dirt flowing into the City storm drain system as necessary. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.
- e. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill.
- f. Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream.
- g. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains.

29. Water Pollution Source Control requirements shall include but not be limited to the following:

- a. No polluted waters from HVAC units shall be discharged to the storm drain via roof drains. Uncontaminated condensate is acceptable for storm drain discharge.
- b. All wastewater and washing operations shall be discharged to the sanitary sewer and not the storm drain, including mat cleaning and any washing of the trash area.
- c. The sanitary sewer discharge from this facility shall be in compliance with all wastewater discharge regulations, prohibitions and limitations to discharge, including the 300-milligram



per liter oil and grease limit. A monitoring structure (SD309) shall be constructed on the sewer lateral for each building.

- d. Materials, gasoline spill, oil spill, heavy stains, radiator fluid, litter, etc. shall be picked-up by dry methods and sweeping so as not to pollute stormwater runoff.
- e. All discharges and connections shall require approval from Water Pollution Source Control.

### **Utilities**

- 30. Install Reduced Pressure Backflow Prevention Assembly per City of Hayward Standard Detail 202 on all domestic & irrigation water meters.
- 31. Additional sewer system capacity to accommodate the volume and waste strength of wastewater to be discharged from 30150 Industrial Parkway SW must be purchased prior to discharge, at the rates in effect at the time of purchase.

### **Public Safety**

#### Access

- 32. Maintain red-curbing and fire lane signage throughout the development to include access routes around the proposed building.
- 33. All access routes shall be designed and engineered to accommodate the weight load of fire apparatus (50,000 lb. GVW).

#### Fire Protection

- 34. Prior to commencement of construction, the fire department requires all access roads and water supplies to be sufficiently provided for the proposed development site. If there is any alteration to this requirement, the proposed development will be subject to a fine and construction may be shutdown for an indefinite period of time, or until compliance has been met.
- 35. An automatic fire sprinkler system is required for the building. The overhead fire sprinkler system shall be designed and installed as per NFPA 13 Standards. If tenants are unknown, this building will be required to have an automatic fire sprinkler system designed with an overhead density and calculated area of **.33 GPM / 3,750 square feet**.
- 36. The underground fire service line for the building's fire sprinkler system shall be designed and installed per NFPA 24 Standards. The underground fire service serving the fire sprinkler system shall be independently controlled and not connected to the (existing) on-site fire hydrants. This assures that the fire hydrants remain in service if the building's fire sprinkler system is being serviced or is out of service due to operation deficiencies (and vice versa).
- 37. Portable fire extinguishers with a minimum rating of 2A:10BC shall be required for the building (each tenant space) at time of tenant occupancy.

38. A minimum building address of 6" shall be installed on the front of the building so as to be visible from the access lane or street.
39. No high pile storage (storage greater than 12' in height) or racking shall be installed within the building (or each tenant space) unless reviewed and approved by the Fire Department.
40. No storage of hazardous materials will be allowed within the building (or each tenant space) unless reviewed and approved by the Fire Department.

#### Hazardous Materials

41. The site requires a Phase I Environmental Assessment (unless documentation has already been produced to the Hazardous Materials Office for the Target Store).

#### **Solid Waste**

42. The owner(s) and/or tenants shall participate in the City's recycling program. The applicant shall clearly indicate the proposed location and dimensions of each enclosure, indicating whether the trash and recyclables will be compacted. The applicant must also indicate the number and type of refuse and recycling containers that will be used. The space and available capacity provided for the storage of trash must be the same size as that provided for recyclables. The procedure that must be followed regarding sorting and collection of recyclables is provided for in Section 3.2.02 of the Franchise Agreement.
43. A 6-inch wide curb or parking bumpers must be provided along the interior perimeter of trash enclosure walls to protect them from damage by the dumpster. A 6-inch wide parking bumper, at least 3 foot long, should also be placed between the refuse dumpster(s) and the recycling containers.
44. A minimum space of 12 inches must be maintained between the dumpster(s) and the walls of any trash enclosure and the recycling carts/dumpster to allow for maneuvering the dumpster(s). A drain to the sanitary sewer should be provided beneath the refuse dumpster(s) wherever wet waste, such as food waste, is generated and wherever can washing areas are located.
45. If any equipment/trash enclosure is gated, the gates and hinges must be flush with the enclosure wall. It is important to ensure that the gates open straight out and that the hinges and that the gate be flush with the enclosure wall, in order to allow adequate maneuverability of the equipment/dumpster in and out of the enclosure to service it.
46. The applicant must ensure that there is adequate space for a garbage truck to service each dumpster. A 40-foot turning radius is adequate for garbage trucks.
47. The applicant is required to submit for review by the Solid Waste Manager an on-site recycling plan, which would be implemented during the entire demolition and construction phases. The plan must:
  - a. Show the anticipated start and completion dates of the project.

- b. Estimate the quantities of construction and demolition waste that will be generated by the project.
  - c. Estimate the quantities of material that will be recycled and identify the facilities that will be used.
48. The applicant must ensure that construction and demolition debris is removed from the site by a licensed contractor as an incidental part of a total construction, remodeling, or demolition service offered by that contractor, rather than as a separately contracted or subcontracted hauling service using debris boxes, or is directly loaded onto a fixed body vehicle and hauled directly to a disposal facility that holds all applicable permits.
49. The applicant shall provide for adequate on-site storage capacity for recyclables within the buildings, including storage space for containers to store paper, glass/plastic/metal beverage containers, and other recyclables where these materials are generated.
50. The applicant shall ensure that the specifications of any compactor meet the approval of Waste Management.
51. The applicant must contact the City's franchised hauler, Waste Management of Alameda County, at 537-5500 to arrange for delivery of containers with sufficient capacity to store construction and demolition materials to be landfilled.

**Engineering/Transportation Division**

52. A preliminary soils report shall be submitted for review and approval of the City Engineer prior to the issuance of a building permit.
53. The applicant shall pay the appropriate Supplemental Building Construction & Improvement Tax prior to receipt of a certificate of occupancy.
54. Prior to commencement of any clearing, grading or excavation, the developer shall submit evidence to the City that a Notice of Intent (NOI) has been submitted to the State Water Resources Control Board.

